



Brussels, 14 September 2017.

CUSTOMS TREATMENT OF RETURN-REFILL CONTAINERS

(Item XVII on the Agenda)

Background

1. The customs treatment of return-refill containers was discussed on 28 February 2017 during the 16th Meeting of the Administrative Committee for the Customs Convention on Containers, 1972 under agenda item VIII *Concerns of the private sector*. Under the referred agenda item, the International Chamber of Commerce (ICC) made a presentation titled “Business recommendations to facilitate the use of return-refill container systems in cross-border trade”.
2. The ICC presentation highlighted the fact that Customs administrations had different and often disparate compliance requirements for return-refill containers. The ICC further stressed that many of the challenges discussed in their presentation would be addressed by the proper implementation and compliance with the Customs Convention on Containers, 1972 and the Convention on Temporary Admission (the Istanbul Convention).
3. At the Administrative Committee for the Customs Convention on Containers, 1972, the ICC encouraged Customs administrations to ensure that their procedures adhered to the above conventions and called upon the WCO to develop guidance in this matter, in close cooperation with the private sector. The Committee concluded by agreeing to put forward a proposal to set up a virtual group to discuss the concerns of the private sector.
4. Following a suggestion by a Member, the Customs treatment of return-refill containers was discussed by the PTC in April 2017 under agenda item XVI *Any other business*. Awareness was raised of the concerns of the business in terms of facilitating the use of return-refill container systems in cross-border trade and Members were invited to join the Virtual Group to progress the work in this area.
5. As of September 2017 the Virtual Group on the Customs treatment of return-refill containers has a total of 18 members from the Customs administrations of Ecuador, Ghana, India, Japan, Panama, the Former Yugoslav Republic of Macedonia, Tunisia, United Kingdom and the United States and the private sector – ICC, the Global

Express Association (GEA), FedEx, UPS and the World Shipping Council (WSC). The Virtual Group works under the chairmanship of the United States.

Intersessional developments

6. In May 2017 the ICC issued a news release titled “ICC calls for global guidance on return-refill container systems”, which can be accessed at the following link: <https://iccwbo.org/media-wall/news-speeches/icc-calls-global-guidance-return-refill-container-systems/>. The news release contains a link to a [set of business recommendations](#) on the issue released by the ICC and calling on the WCO to develop international guidelines on return-refill container systems in close cooperation with the private sector.
7. In July 2017 Australia put forward a proposal for temporary admission of containers, pallets and packings (doc. G/C/W/740 of 28 July 2017) with the objective of having the proposal considered at the Eleventh World Trade Organization Ministerial Conference in Buenos Aires in December 2017.
8. In the intersession the WCO Virtual Group referred to in paragraph 5 above developed a progress report, which is included in the Annex hereto for consideration by the PTC.

Action required

9. The PTC is invited to take note of the progress report of the Virtual Group as contained in the Annex hereto and provide guidance on the way forward.

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Virtual Group on the Customs Treatment of Return-refill Containers Progress report and recommended way forward

Background

The transport of goods is often facilitated by the use of containers, packaging and other transport equipment, operating within a return-refill system. Containers and packaging of this nature can take many different forms: custom racks for car parts, base frames for loose dispatch of garments, stackable containers for products of different sizes and geometrical shapes – to name but a few examples. In some countries/regions, such items are referred to as Instruments of International Traffic or Trade. In terms of environmental policy, return-refill systems make perfect sense as they allow for the conservation of natural resources, easing environmental burdens substantially.

Tracking and tracing systems likewise enhance transporters' ability to monitor shipments and containers alike, preventing loss and decreasing the environmental impact of transportation services. These devices may be used to track location, humidity, light, temperature, pressure, and shock. They facilitate the safe, secure, and efficient transport of life-saving medical devices and treatments.

By design, return-refill systems require containers and packaging to carry cargo from a specified production site to a designated point of delivery, only to be returned either directly or via a number of stations – empty. Still in good condition, the returned containers and packaging are later reused to transport another batch of goods. Similarly, tracking and tracing systems are often consolidated at a destination and returned to their point of origin, as the shipment they accompanied originally is consumed at its destination. For these types of packaging and transport equipment the temporary admission procedure was established. However, this type of new transport equipment is not covered in the scope and definition of container and transport equipment as they have less than one cubic meter in volume.

Customs administrations have different and often disparate compliance requirements for return-refill containers. Many of the challenges encountered could be addressed by proper implementation and application of and compliance with the temporary admission procedures for transport equipment as contained in either the 1972 Container Convention or the Convention on Temporary Admission (Istanbul Convention). However, besides the lack of recognition of refill container systems of less than 1 cubic-meter in volume as transport equipment falling under one of the aforementioned conventions, many administrations have not acceded to one of the two leading temporary admission conventions administered by the World Customs Organization.

Developments so far

The Customs' treatment of return-refill containers had been discussed during the 16th Meeting of the Administrative Committee for the Customs Convention on Containers, 1972 (Container Convention), in February 2017, and during the 217th/218th Sessions of the Permanent Technical Committee.

During the meeting of the Administrative Committee for the Container Convention, the Delegate of the United States had supported the idea of discussing the private sector's concerns within the Committee and had volunteered to lead a virtual group for the development of WCO guidance on the Customs' treatment of return-refill containers.

The Administrative Committee for the Container Convention had concluded by agreeing to put forward a proposal to set up a virtual group to discuss the concerns of the private sector. The VWG is comprised of 18 individuals from the Customs administrations of Ecuador, Ghana, India, Japan, Panama, the Former Yugoslav Republic of Macedonia, Tunisia, United Kingdom and the United States and the private sector – ICC, the Global Express Association (GEA), FedEx, UPS and the World Shipping Council (WSC)¹.

The WTO is starting to look at temporary admission as they see the limitations connected with the existing instruments having a negative effect on trade and in particular on micro, small and medium sized enterprises. Art. 9.1 of the TFA requires Members to provide for temporary admission, but does not specify the types of goods. The Ministerial Conference in December 2017 may be presented with a formal proposal by Australia to have WTO members allow for duty free temporary admission for containers, pallets and packings used in the international transportation of goods, which would include refill container systems of any size.

Way forward

The virtual working group will have to consider a number of options on how best to address the current issue. In summary, the following non-exhaustive list of options should be discussed with a view to identify and agree on the most promising option. It is apparent that from a private sector perspective, the best solution is the one that will provide a harmonized and standardized procedure, be applied in practice and which can be monitored.

Option 1: Amending 1972 Container Convention and Istanbul Convention and promotion

Amend the 1972 Container Convention and the Istanbul Convention to allow the refill containers to be included in the scope of these temporary admission conventions without impacting on well-established existing practices for sea-going containers and other transport equipment.

Insofar as return-refill containers were less than one cubic meter, it is worth noting that the Protocol of Signature of the Container Convention encourages contracting parties that the one-cubic-metre limitation of the internal volume should not imply the application of more restrictive regulations to containers of a smaller volume. Obviously, contracting parties have not followed this recommendation, so that amendments in the body of the conventions might be the more effective option. However, amending international conventions is not an easy undertaking.

In any event, it seems inevitable that the WCO and its members should properly analyse the reasons why WCO members have not yet acceded to these conventions and based on this analysis take action and promote the two conventions and the temporary admission procedure. The implementation of the TFA, here Art. 9.1 and the possible WTO proposal on temporary admission should be used to strengthen promotion efforts and have WCO members to become contracting parties to these conventions.

Option 2: Develop a WCO Recommendation

In case WCO members would not support the amendment of the conventions or to bridge the time until such amendment can be considered, the WCO could develop a WCO Recommendation on the temporary admission of refill container systems. The development of Recommendations is one of the core tasks of the WCO. Prior to the development of the Istanbul Convention, the WCO has prepared and adopted a range of temporary admission recommendations, which were subsequently incorporated into the Istanbul Convention.

¹ The World Shipping Council, which is a member of the virtual working group, is not in a position to support the report in its current form.

Option 3: Technical Guidelines

In addition or as a stand-alone item to the Recommendation, the WCO could develop Guidelines for the practical application and Customs treatment of refill container systems.
